



**CITY COUNCIL**  
**Regular Meeting – May 28, 2019 6:00 p.m.**  
**Council Chambers**

1368 Research Park Dr  
Beavercreek, Ohio

**PROCLAMATIONS**

- ◆ Creek Classic
- ◆ Scleroderma Awareness Month, Kelley Hill

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Litteral
- IV. APPROVAL OF AGENDA
- V. ORDINANCES, RESOLUTIONS AND PUDS
  - A. Ordinance 19-04 PACE (Property Assessed Clean Energy) Ordinance to Proceed (Third Reading) (Adopt as Emergency on Third Reading)
  - B. Ordinance 19-05 PACE (Property Assessed Clean Energy) Levying Assessments (Third Reading) (Adopt as Emergency on Third Reading)
  - C. Ordinance 19-06, PUD 19-1, IH Credit Union Rezoning (Second Reading)
  - D. Ordinance 19-07 Appropriate the Right-of-Way (Carlotta Oldham) for the Kemp Road Widening Project (Second Reading)
  - E. Ordinance 19-08 Charter Amendments (First Reading)
  - F. Resolution 19-31 Authorize City Manager to Approve Purchasing, Travel and Petty Cash Policies and Amend Policies as Needed in Accordance with City Charter
  - G. Ordinance 19-09 Repealing Current Section 31.01 and Adopting New Section 31.01 and Repealing Current Section 31.17 (First Reading)
  - H. Ordinance 19-10 Repealing Current Section 35.17 and Section 35.18 and Adopting New Section 35.17 and Section 35.18 (First Reading)
  - I. Resolution 19-32 Repealing Resolution 07-19
  - J. Resolution 19-33 Repealing Resolution 07-20
  - K. Resolution 19-34 Repealing Resolution 12-48
  - L. Resolution 19-35 Renewal of Beavercreek Soccer Association Agreement
  - M. Resolution 19-36 Restoration of Pre-Recession Level Government Funds by Ohio General Assembly
- VI. LIQUOR PERMITS
  - A. 1504 Falcons Food LLC DBA TGI Fridays (Transfer)
- VII. DECISION ITEMS
  - A. Board Appointments - Bikeway and Non-Motorized Transportation Committee (1 Vacancy-Unexpired Term)
- VIII. COUNCIL TIME
- IX. MAYOR'S REPORT
- X. CITY MANAGER'S REPORT
- XI. CITIZEN COMMENTS
- XII. EXECUTIVE SESSION
- XIII. ADJOURNMENT

**CITY OF BEAVERCREEK, OHIO  
ORDINANCE NO. 19-04**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 22<sup>ND</sup> DAY OF APRIL, 2019.

**AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF BEAVERCREEK, OHIO, IN COOPERATION WITH THE BEAVERCREEK ENERGY SPECIAL IMPROVEMENT DISTRICT AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Council (the “City Council”) of the City of Beavercreek, Ohio (the “City”), duly adopted Resolution No. 19-28] on April 22, 2019 (the “Resolution of Necessity”), (i) declaring the necessity of acquiring, constructing, and improving energy efficiency improvements, including, without limitation, LED lighting, building envelope improvements, energy efficient windows, a high-efficiency HVAC system, a high-efficiency water system, and related improvements (the “Project”, as more fully described in the Petition referenced in this Ordinance) located on real property owned by Greene Innkeepers, LLC (together with all future owners of the Project Site, as defined below, the “Owner”) at 2667 Fairfield Commons Boulevard, Beavercreek, Ohio 45431, within the City (as more fully described in Exhibit A to the Petition, as defined below, the “Project Site”); (ii) providing for the acquisition, construction, and improvement of the Project by the Owner, as set forth in the Owner’s *Petition for Creation of Energy Special Improvement District and for Special Assessments for Special Energy Improvement Projects* (the “Petition”) and the *Beavercreek Energy Special Improvement District Plan* (the “Plan”) including by levying and collecting special assessments upon and from the Project Site (the “Special Assessments”) in an amount sufficient to pay the costs of the Project, which is estimated to be \$6,206,825.00, and which includes other related costs of financing the Project, including, without limitation, the payment of principal of and interest on nonprofit corporate obligations issued to pay the costs of the Project and other interest, financing, credit enhancement, and issuance expenses, including City administrative and legal fees and expenses, and ongoing trustee fees and Beavercreek Energy Special Improvement District (“District”) administrative fees and expenses; and (iii) determining that the Project will be treated as a special energy improvement project to be undertaken cooperatively by the City and the District; and

**WHEREAS**, the claims for damages alleged to result from, and objections to, the Project have been waived by 100% of the affected property owners and no claims for damages or objections have been filed.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Beavercreek, Ohio:

**SECTION 1.** Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

**SECTION 2.** This City Council declares that its intention is to proceed with the acquisition, construction, and improvement of the Project described in the Petition and the Resolution of Necessity. The Project shall be made in accordance with the provisions of the Resolution of Necessity and with the plans, specifications, profiles, and estimates of cost previously approved and now on file with the City Fiscal Officer (the "Fiscal Officer").

**SECTION 3.** The Special Assessments to pay costs of the Project, which are estimated to be \$6,206,825.00, including other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the Owner or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, District administrative fees and expenses, and City administrative and legal fees and expenses, shall be assessed against the Project Site in the manner and in the number of annual installments provided in the Petition and the Resolution of Necessity. Each annual Special Assessment payment represents the payment of a portion of the principal of and interest on obligations issued to pay the costs of the Project and the scheduled amounts payable as the District administrative fee and the trustee fee. The Special Assessments shall be assessed against the Project Site commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2043 for collection in 2044. In addition to the Special Assessments, the County Auditor of Greene County, Ohio (the "County Auditor"), may impose a special assessment collection fee with respect to any annual payment certified to the County Auditor for collection, which amount, if any, will be added to the Special Assessments by the County Auditor.

**SECTION 4.** The estimated Special Assessments for costs of the Project, which have been prepared and filed in the office of the City Council and in the office of the Fiscal Officer in accordance with the Resolution of Necessity, are adopted, and the usefulness of the

services and improvements provided pursuant to the plan are determined to be 26 years.

**SECTION 5.**

In compliance with Ohio Revised Code Section 319.61, the Fiscal Officer, the City Clerk, and any of their designees are authorized and directed, individually or together, to deliver a certified copy of this Ordinance to the County Auditor within 15 days after the date of its passage.

**SECTION 6.**

All contracts for the construction of the Project will be let in the manner provided by law, subject to the provisions of the Ohio Revised Code, the Petition, and the Plan, and the costs of the Project shall be financed as provided in the Resolution of Necessity.

**SECTION 7.**

It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this City Council, and that all deliberations of this City Council that resulted in such formal action were in meetings open to the public in compliance with the law.

**SECTION 8.**

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City and for the further reason that this Ordinance is required to be immediately effective in order to allow the City to take advantage of financing available to it for a limited time. Therefore, this Ordinance shall be in full force and effect immediately upon its adoption and certification.

**SECTION 9.**

This Resolution shall become effective immediately upon its passage.

THIS RESOLUTION IS ADOPTED BY THE Council of the City of Beavercreek, Ohio this 22<sup>nd</sup> day of April, 2019.

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Bob Stone, Mayor

Attest:

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Dianne Miscisin, Clerk of Council

\_\_\_\_\_ moved for the adoption of the ordinance.

\_\_\_\_\_ seconded the motion.

	Yea	Nay	Absent
Bob Stone .....	_____	_____	_____
Joanna Garcia.....	_____	_____	_____
Charles Curran.....	_____	_____	_____
Melissa Litteral.....	_____	_____	_____
Ryan Rushing.....	_____	_____	_____
Zach Upton.....	_____	_____	_____
Julie Vann.....	_____	_____	_____

**CERTIFICATION**

The undersigned hereby certifies that this Ordinance was duly passed by the Council of the City of Beavercreek, Ohio on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Clerk of Council  
City of Beavercreek, Ohio

RECEIPT OF COUNTY AUDITOR FOR  
LEGISLATION DETERMINING TO  
PROCEED WITH ACQUISITION, CONSTRUCTION,  
AND IMPROVEMENT OF CERTAIN PUBLIC  
IMPROVEMENTS IN THE CITY OF BEAVERCREEK  
IN COOPERATION WITH THE BEAVERCREEK  
ENERGY SPECIAL IMPROVEMENT DISTRICT

I, David A. Graham, the duly elected, qualified, and acting Auditor in and for Greene County, Ohio hereby certify that a certified copy of Ordinance No. 2019-\_\_\_ duly adopted by the Council of the City of Beavercreek, Ohio on \_\_\_\_\_, 2019, determining to proceed with the acquisition, construction, and improvement of certain public improvements in the City of Beavercreek in cooperation with the Beavercreek Energy Special Improvement District, was filed in this office on \_\_\_\_\_, 2019.

WITNESS my hand and official seal at Xenia, Ohio on \_\_\_\_\_, 2019.

[SEAL]

\_\_\_\_\_  
Auditor  
Greene County, Ohio

**CITY OF BEAVERCREEK, OHIO  
ORDINANCE NO. 19-05**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 22<sup>ND</sup> DAY OF APRIL, 2019.

**A ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE CITY OF BEAVERCREEK, OHIO, IN COOPERATION WITH THE BEAVERCREEK ENERGY SPECIAL IMPROVEMENT DISTRICT; AUTHORIZING AND APPROVING AN ENERGY PROJECT COOPERATIVE AGREEMENT BY AND AMONG THE CITY OF BEAVERCREEK, OHIO, THE BEAVERCREEK ENERGY SPECIAL IMPROVEMENT DISTRICT, GREENE INNKEEPERS LLC, AND PACE EQUITY LLC PROVIDING FOR THE FINANCING OF THOSE PUBLIC IMPROVEMENTS; AUTHORIZING AND APPROVING A SPECIAL ASSESSMENT AGREEMENT BY AND BETWEEN THE CITY OF BEAVERCREEK OHIO, THE COUNTY TREASURER OF GREENE COUNTY, OHIO, PACE EQUITY, LLC, THE BEAVERCREEK ENERGY SPECIAL IMPROVEMENT DISTRICT, AND PACE EQUITY LLC REGARDING THOSE SPECIAL ASSESSMENTS; AND DECLARING AN EMERGENCY**

**WHEREAS**, this Council (the “City Council”) of the City of Beavercreek, Ohio (the “City”), duly adopted Resolution No. 19-28 on April 22, 2019 (the “Resolution of Necessity”), and declared the necessity of acquiring, constructing, improving and installing energy efficiency improvements, including, without limitation, LED lighting, building envelope improvements, energy efficient windows, a high-efficiency HVAC system, a high-efficiency water system, and related improvements (the “Project”), as described in the Resolution of Necessity and as set forth in the Petition requesting those improvements; and

**WHEREAS**, this City Council duly adopted Ordinance No. 19-05 on \_\_\_\_\_, 2019 and determined to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the City Fiscal Officer (the “Fiscal Officer”) under the Resolution of Necessity; and

**WHEREAS**, the City intends to enter into an Energy Project Cooperative Agreement (the “Cooperative Agreement”) with the Beavercreek Energy Special Improvement District (the “District”), Greene Innkeepers, LLC (the “Owner”), and PACE Equity LLC (the “Investor”) to provide for, among other things, (i) making the Project Advance (as defined in the Cooperative Agreement) to pay costs of the Project, (ii) the disbursement of the Project Advance for the acquisition and construction of the

Project, and (iii) the transfer of the Special Assessments by the City to the Investor to pay principal and interest and other costs relating to the Project Advance; and

**WHEREAS**, to provide for the security for the Project Advance and for administration of payments on the Project Advance and related matters, the City intends to enter into an agreement with the County Treasurer of Greene County, Ohio (the “County Treasurer”), the District, the Owner, and the Investor (the “Special Assessment Agreement”);

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Beavercreek, Ohio:

**SECTION 1.** Each capitalized term used in this Ordinance where the rules of grammar would otherwise not require and not otherwise defined in this Ordinance or by reference to another document shall have the meaning assigned to it in the Resolution of Necessity.

**SECTION 2.** The list of Special Assessments to be levied and assessed on the Project Site in an amount sufficient to pay the costs of the Project, which is \$6,206,825.00, and includes other related financing costs incurred in connection with the issuance, sale, and servicing of securities, nonprofit corporate obligations, or other obligations issued to provide a loan to the District or otherwise to pay costs of the Project in anticipation of the receipt of the Special Assessments, capitalized interest on, and financing reserve funds for, such securities, nonprofit corporate obligations, or other obligations so issued, including any credit enhancement fees, trustee fees, District administrative fees and expenses, and City administrative and legal fees and expenses, which costs were set forth in the Petition and previously reported to this City Council and are now on file in the offices of the City Council and the Mayor, is adopted and confirmed, and that the Special Assessments are levied and assessed on the Project Site. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City.

The Special Assessments are assessed against the Property commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2043 for collection in 2044. The semi-annual installments of the Special Assessments shall be collected in each calendar year equal to a maximum semi-annual amount of Special Assessments as shown in Exhibit A, attached to and incorporated into this Ordinance.

The Fiscal Officer initially shall collect the unpaid Special Assessments in place of the County Treasurer of Greene County, Ohio, as provided by Ohio Revised Code Section 727.331. Upon any failure by the Owner to pay any installment of the Special Assessments to the Fiscal Officer as and when due, all unpaid and remaining future Special Assessments shall be certified by the Fiscal Officer to the County Auditor of Greene County, Ohio (the "County Auditor"), pursuant to the Petition and Ohio Revised Code Chapter 727.33, to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

The Special Assessments shall be allocated among the parcels constituting the Project Site as set forth in the Petition and the List of Special Assessments attached to and incorporated into this Ordinance as Exhibit A.

**SECTION 3.**

This City Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Property as set forth in the Petition and are not in excess of any applicable statutory limitation.

**SECTION 4.**

The Owner, for itself and for all its successors in interest as owners of the Project Site, has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the Fiscal Officer to be collected in installments in 50 semi-annual installments commencing in tax year 2019 for collection in 2020 and shall continue through tax year 2043 for collection in 2044.

**SECTION 5.**

The Special Assessments will be used by the City to provide the Project in cooperation with the District in any manner, including assigning the Special Assessments actually received by the City to the District or to another party the City deems appropriate, and the Special Assessments are appropriated for such purposes.

**SECTION 6.**

The Fiscal Officer shall keep the Special Assessments on file in the Office of the Fiscal Officer.

**SECTION 7.**

In compliance with Ohio Revised Code Section 319.61, the Fiscal Officer, the City Clerk, and any of their designees are authorized and directed, individually or together, to deliver a certified copy of this Ordinance to the County Auditor within 20 days after its passage.

**SECTION 8.**

This City Council hereby approves the Cooperative Agreement, a copy of which is on file in the office of the City Council. The City Council, the City Manager, the Mayor, the Fiscal Officer, or any one of them, is authorized to sign and deliver, in the name and on behalf of the City, the Cooperative Agreement, in substantially the form as is now on file with the City Council. The Cooperative Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Law Director and the City Council, the City Manager, the Mayor, the Fiscal Officer, or any one of them, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Cooperative Agreement or amendments to the Cooperative Agreement.

**SECTION 9.**

This City Council hereby approves the Special Assessment Agreement, a copy of which is on file in the office of the City Council. The City Council, the City Manager, the Mayor, the Fiscal Officer, or any one of them, is authorized to sign and deliver, in the name and on behalf of the City, the Special Assessment Agreement, in substantially the form as is now on file with the City Council. The Special Assessment Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the Law Director and the City Council, the City Manager, the Mayor, the Fiscal Officer, or any one of them, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Special Assessment Agreement or amendments to the Special Assessment Agreement. The City is authorized to enter into such other agreements that are not inconsistent with the Resolution of Necessity and this Ordinance and that are approved by the Law Director and the City Council, the City Manager, the Mayor, the Fiscal Officer, or any one of them, on behalf of the City, all of which shall be conclusively evidenced by the signing of such agreements or any amendments to them.

**SECTION 10.**

It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this City Council, and that all deliberations of this City Council that resulted in such formal action were in meetings open to the public in compliance with the law.

**SECTION 11.**

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of the City and for the further reason that this Ordinance is

required to be immediately effective in order to allow the District to take advantage of financing available to it for a limited time. Therefore, this Ordinance shall be in full force and effect immediately upon its adoption and certification.

**SECTION 12.**

This Resolution shall become effective immediately upon its passage.

THIS RESOLUTION IS ADOPTED BY THE Council of the City of Beavercreek, Ohio this 22<sup>nd</sup> day of April, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

Attest:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

\_\_\_\_\_ moved for the adoption of the ordinance.

\_\_\_\_\_ seconded the motion.

	Yea	Nay	Absent
Bob Stone .....	_____	_____	_____
Joanna Garcia.....	_____	_____	_____
Charles Curran.....	_____	_____	_____
Melissa Litteral.....	_____	_____	_____
Ryan Rushing.....	_____	_____	_____
Zach Upton.....	_____	_____	_____
Julie Vann.....	_____	_____	_____

**CERTIFICATION**

The undersigned hereby certifies that this Ordinance was duly passed by the Council of the City of Beavercreek, Ohio on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Clerk of Council  
City of Beavercreek, Ohio

**EXHIBIT A**

**LIST OF SPECIAL ASSESSMENTS AND  
SCHEDULE OF SPECIAL ASSESSMENTS**

LIST OF SPECIAL ASSESSMENTS

<u>Name</u>	<u>Assessed Properties Description</u>	<u>Portion of Benefit and Special Assessment</u>	<u>Amount of Special Assessments</u>
Greene Innkeepers, LLC	Greene Co. Parcel No.: B42000400030006300	100%	\$6,206,825.00

SCHEDULE OF SPECIAL ASSESSMENTS  
FOR GREENE COUNTY PARCEL NO.:

B42000400030006300\*

The following schedule of Special Assessment charges shall be certified for collection in 50 semi-annual installments to be collected with real property taxes in calendar years 2020 through 2044:

<b>Special Assessment Payment Date*</b>	<b>Special Assessment Payment Installment**</b>
1/31/2020	\$124,136.50
7/31/2020	\$124,136.50
1/31/2021	\$124,136.50
7/31/2021	\$124,136.50
1/31/2022	\$124,136.50
7/31/2022	\$124,136.50
1/31/2023	\$124,136.50
7/31/2023	\$124,136.50
1/31/2024	\$124,136.50
7/31/2024	\$124,136.50
1/31/2025	\$124,136.50
7/31/2025	\$124,136.50
1/31/2026	\$124,136.50
7/31/2026	\$124,136.50
1/31/2027	\$124,136.50
7/31/2027	\$124,136.50
1/31/2028	\$124,136.50
7/31/2028	\$124,136.50
1/31/2029	\$124,136.50
7/31/2029	\$124,136.50
1/31/2030	\$124,136.50
7/31/2030	\$124,136.50
1/31/2031	\$124,136.50
7/31/2031	\$124,136.50
1/31/2032	\$124,136.50
7/31/2032	\$124,136.50
1/31/2033	\$124,136.50
7/31/2033	\$124,136.50
1/31/2034	\$124,136.50
7/31/2034	\$124,136.50
1/31/2035	\$124,136.50
7/31/2035	\$124,136.50
1/31/2036	\$124,136.50

7/31/2036	\$124,136.50
1/31/2037	\$124,136.50
7/31/2037	\$124,136.50
1/31/2038	\$124,136.50
7/31/2038	\$124,136.50
1/31/2039	\$124,136.50
7/31/2039	\$124,136.50
1/31/2040	\$124,136.50
7/31/2040	\$124,136.50
1/31/2041	\$124,136.50
7/31/2041	\$124,136.50
1/31/2042	\$124,136.50
7/31/2042	\$124,136.50
1/31/2043	\$124,136.50
7/31/2043	\$124,136.50
1/31/2044	\$124,136.50
7/31/2044	\$124,136.50

\* As identified in the records of the Auditor of Greene County, Ohio, as of April 12, 2019.

\*\* Pursuant to Ohio Revised Code Chapter 323, the Special Assessment Payment Dates identified in this Schedule of Special Assessments are subject to adjustment by the Auditor of Greene County, Ohio, under certain conditions.

\*\*\* The Auditor of Greene County, Ohio, may impose a special assessment collection fee with respect to any annual Special Assessment payment certified to the Auditor for collection. If imposed, this special assessment collection fee will be added by the Auditor of Greene County, Ohio, to each annual Special Assessment payment.

RECEIPT OF COUNTY AUDITOR FOR  
LEGISLATION LEVYING SPECIAL ASSESSMENTS  
FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING,  
AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS  
IN THE CITY OF BEAVERCREEK IN COOPERATION WITH  
THE BEAVERCREEK ENERGY  
SPECIAL IMPROVEMENT DISTRICT

I, David A. Graham, the duly elected, qualified, and acting Auditor in and for Greene County, Ohio hereby certify that a certified copy of Ordinance No. 2019-\_\_\_\_, duly adopted by the Council of the City of Beavercreek, Ohio on \_\_\_\_\_, 2019, levying special assessments for the purpose of acquiring, constructing, and improving certain public improvements in the City of Beavercreek, Ohio in cooperation with the Beavercreek Energy Special Improvement District, including the List of Special Assessments and Schedule of Special Assessments, which Special Assessment charges are levied in fifty (50) semi-annual installments with respect to real property taxes due in calendar years 2020 through 2044, was filed in this office on \_\_\_\_\_, 2019.

WITNESS my hand and official seal at Xenia, Ohio on \_\_\_\_\_, 2019.

[SEAL]

\_\_\_\_\_  
Auditor  
Montgomery County, Ohio

## **ORDINANCE NO. 19-06**

### **CITY OF BEAVERCREEK**

SPONSORED BY COUNCIL MEMBER VANN ON THE 13<sup>TH</sup> DAY OF  
MAY, 2019.

**AN ORDINANCE REZONING 1.595 ACRES FROM B-2 and A-1 ,  
FURTHER DESCRIBED AS BOOK 5, PAGE 5, PARCELS  
123 AND 124 ON THE PROPERTY TAX MAPS OF  
GREENE COUNTY, OHIO TO C-PUD 19-1.**

Whereas Danis Inc., 3233 Newmark Drive, Miamisburg, OH 45342, has  
requested this zoning amendment; and

Whereas, the City of Beavercreek Planning Commission has recommended  
approval of the zoning amendment with conditions and requirements; and

Whereas, the City Council finds that the facts submitted with the application and  
presented at the public hearing and any modifications, amendments, or supplementary  
conditions satisfy the standards and criteria for Planned Unit Development approval as per  
§158.072 of the Zoning Code; and

WHEREAS, the City Council has voted to adopt the recommendation of the Planning  
Commission with modifications, this being a decision that requires approval by four  
members of Council.

NOW THEREFORE THE MUNICIPALITY OF BEAVERCREEK HEREBY ORDAINS:

#### **SECTION I**

That the Zoning Map referenced in §158.018 of the Zoning Code be amended to change  
approximately 1.595 acres of land, located at 1464 and 1474 North Fairfield Rd. from B-2  
Community Commercial, and A-1 Agricultural, to C-PUD, Commercial Planned Unit  
Development.

#### **SECTION II**

1. The concept plan dated "Received March 7 2019" shall be adopted as the location map  
for this C-PUD.
2. The permitted uses within this PUD shall be those uses that are conditional and  
permitted in B-2 zoning districts, with the exception of the following:

- Brewery
  - Drug and alcohol addiction rehabilitation clinics (no overnight facilities)
  - Heating, air conditioning and plumbing service and repair (excluding well drilling)
  - Heating, air conditioning and plumbing stores - retail
  - Residential cleaning services
  - Car rental service
  - Moving trucks and trailers
  - Veterinary clinic with kennels or animal hospitals
3. All new buildings shall incorporate four-sided architecture and shall have no apparent rear. All dumpster enclosures shall incorporate three-sided architecture and an opaque front that is constructed of materials that match the new buildings. The buildings and dumpster enclosure shall be designed as required by the Planning Department, Planning Commission and City Council at the Specific Site Plan.
4. The access points and types of access shall be subject to the approval of the City Engineer, Planning Commission, and City Council at the Specific Site Plan.
5. There shall be no removal of any trees within this PUD until specific site plan approval has been obtained by City Council.

### SECTION III

This Ordinance shall take effect from and after the earliest period allowed by law.

### SECTION IV

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

## SUMMARY

This Ordinance adopts a recommendation to rezone 1.595 acres from B-2 and A-1 to C-PUD 19-1.

This is not an emergency ordinance and will become effective 30 days after passage.

**CITY OF BEAVERCREEK, OHIO**

**ORDINANCE NO. 19-07**

SPONSORED BY COUNCIL MEMBER CURRAN ON THE 13<sup>TH</sup> DAY OF MAY, 2019.

**TO APPROPRIATE CERTAIN REAL PROPERTY INTERESTS OWNED  
BY CARLOTTA OLDHAM, FOR THE KEMP ROAD WIDENING  
PROJECT, IN THE CITY OF BEAVERCREEK, OHIO.**

WHEREAS, this Council, by Resolution Number 19-29, declared its intention and the necessity of appropriating certain real property, parcel of land, or real property interests described in said Resolution; and

WHEREAS, it is necessary to appropriate the said certain property, parcel of land or real property interests for the purpose of the roadway construction and improvement in connection with the Kemp Road Widening Project;

NOW, THEREFORE, THE CITY OF BEAVERCREEK, OHIO HEREBY ORDAINS THAT:

**SECTION I.**

The real property, parcels of land or real property interests described in Exhibit 'A', and Exhibit 'B' attached hereto and incorporated herein, for public right-of-way and street and highway purposes for the Kemp Road Widening Project shall be and the same are hereby appropriated for the construction of said project.

**SECTION II.**

The names of those either having, claiming, or that may have any estate, title or interest in the above-described real property, parcels of land or real property interest to be appropriated by this Ordinance are: Carlotta Oldham, and any other lien holders, persons or entities declaring an interest pursuant to law, the Treasurer of Greene County, Ohio and the Auditor of Greene County, Ohio.

**SECTION III.**

The above-described real property, parcels, land, and/or real property interests have a fair market value of \$1,190, as determined by an independent, certified appraiser.

**SECTION IV.**

#### SECTION IV.

This Council finds that the appropriation is necessary for the stated public purposes and that the City intends to obtain immediate possession of the real property, parcel of land or real property interests described in Exhibit 'A', and Exhibit 'B', which immediate possession is necessary for the stated public purposes.

#### SECTION V.

The City Attorney is hereby authorized and directed to deposit the aforesaid valued amount with the Clerk of Court of Greene County, Ohio, or other depository, take possession of the afore described real property, parcel of land or real property interest, file, as necessary, a petition for appropriation, apply to a court of competent jurisdiction to make inquiry into and assess the compensation to be paid for the real property, parcel of land or real property interests to be appropriated, and to do all things necessary or proper in connection therewith.

#### SECTION VI.

All actions taken by or in behalf of the City of Beavercreek in connection with the appropriation of the afore described real property, parcel of land or real property interests and prior to the time of adoption of this Ordinance are hereby ratified.

#### SECTION VII.

That is it found and determined that all of this Council concerning and relating to adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberation of this Council and of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

ADOPTED by the Council of the City of Beavercreek, Ohio this \_\_\_\_ day of June, 2019.

---

Bob Stone, Mayor

ATTEST:

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Dianne Miscisin, Clerk of Council

TO THE CLERK:

If this ordinance is adopted, please post it in full in the office of this City within ten days after its adoption and within the same ten days publish the summary of the ordinance one time in any newspaper or other printed publication of the type referred to above, together with a notice of adoption of the Ordinance.

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City Attorney

SUMMARY

This Ordinance appropriates certain real property, parcels of land, or real property interests owned by Carlotta Oldham, with interest by others, for the Kemp Road Widening Project in the City of Beavercreek, Ohio.

**ORDINANCE NO. 19-08**

**CITY OF BEAVERCREEK**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE AMENDMENTS OF THE CHARTER OF THE CITY OF BEAVERCREEK, OHIO, AND TO PLACE THE SAME ON THE BALLOT AT THE GENERAL ELECTION, NOVEMBER 5, 2019.**

**WHEREAS**, Council having determined that certain Charter amendments should be submitted to the electors of the City; and

**WHEREAS**, Article XVIII, Section 9 of the Ohio Constitution and Section 13.08 of the Beavercreek Charter provide that amendments to the Charter may be submitted to the electors of the municipality by two-thirds (2/3) vote of the members of Council.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK, TWO THIRDS OF ALL MEMBERS OF COUNCIL CONCURRING, HEREBY ORDAINS:**

**SECTION I.**

The question of the amendments of the Charter of the City shall be submitted to a vote of the electors of the municipality at the general election to be held on Tuesday, the 5<sup>th</sup> day of November, 2019, at the regular places of voting in the City between the hours of 6:30 a.m. and 7:30 p.m. to determine whether the Charter shall be amended with the additions and deletions from the Charter as indicated in the draft Charter revisions document attached to this Ordinance as Exhibit "A".

**SECTION II.**

The ballot language shall read as follows:

"Shall the Charter of the Municipality of Beavercreek, Ohio be amended by:

1. Revising Section 4.02 to allow a member of City Council elected to the office of mayor during his or her second term as a council member to serve the full term as mayor, not to exceed ten total years served as council member and mayor combined.

2. Revising Section 5.03 to reduce the number of readings required for City Council to pass an ordinance from three (3) readings to two (2) readings.
3. Revising Section 6.01 to require the affirmative vote of five (5) members of City Council to appoint a City Manager.
4. Revising Section 6.03 to require the affirmative vote of five (5) members of City Council to remove a City Manager.
5. Revising Section 9.02 to allow a board or commission member to be appointed to more than one board or commission of the City.

### SECTION III.

A majority vote shall be necessary for adoption of this question. If adopted, this amendment will be effective on certification of the election results.

### SECTION IV.

Notice of the time and place of holding such election shall be given as required by law. The full text of the proposed amendment shall be published one (1) time per week for not less than two (2) consecutive weeks in a newspaper of general circulation in the City of Beavercreek, with the first publication being not less than fifteen (15) days prior to the election at which the amendment is to be submitted to the electors.

### SECTION V.

The Clerk of Council shall certify this Ordinance to the Greene County Board of Elections by 4:00 p.m. on August 7, 2019.

### SECTION VI.

Passage of this Ordinance shall require the affirmative vote of five (5) members of this Council as required by Article XVIII, Section 9 of the Ohio Constitution and Section 13.08 of the Charter.

### SECTION VII.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

ADOPTED by the Council of the City of Beavercreek, Ohio this \_\_\_\_ day of \_\_\_\_, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

THIS ORDINANCE PROVIDES FOR THE SUBMISSION TO THE ELECTORATE OF AMENDMENTS OF THE CHARTER OF THE CITY OF BEAVERCREEK, OHIO, AND TO PLACE THE SAME ON THE BALLOT AT THE GENERAL ELECTION, NOVEMBER 5, 2019.

## Exhibit A

Beavercreek Charter 2019 Proposed Amendments  
Additions in **bold** and deletions in ~~strike-through~~

### SECTION 4.02 SELECTION; TERM

Six (6) Council members shall be elected as Council members at large to four (4) year terms on a rotation of three (3) members selected in one election and three (3) members selected in the next. This rotation will begin with three (3) persons being selected at the 2019 November general election and three (3) selected at the 2021 November general election and will continue at the November general election in subsequent off numbered years. The Mayor shall be selected by separate ballot to a four (4) year term beginning at the 2019 November general election and each four (4) years thereafter.

#### (A) Term Limitation.

(1) In no case **except as set forth in this sub paragraph** shall any person be elected to either the office of Council member, Mayor, or a combination of the two offices, for more than two (2) consecutive terms of four (4) years each; provided that the term served in filling a vacancy or unexpired term shall not be considered as part of the two (2) consecutive terms of four (4) years each. **If a Council member is elected to the office of Mayor during their second term as a Council member, they shall be allowed to serve the full term as Mayor, not to exceed ten years.**

(2) Following the election to two (2) consecutive terms as either Council member, Mayor, or a combination of the two offices, no person shall immediately thereafter be eligible for election to either office, or a combination thereof, until a period of one (1) term consisting of four (4) years has elapsed.

(3) No person who has been elected to two (2) consecutive terms as Council member, Mayor, or a combination of the two offices, shall be appointed to fill a vacancy or unexpired term until a period of one (1) term consisting of four (4) years has elapsed since that same person last held office as either Council member or Mayor.

(4) Present members already elected to more than two (2) consecutive terms as either Council member, Mayor, or a combination of the two offices, shall finish the present term to which they were elected.

This proposed Charter amendment shall become effective from the time of its approval by the electors and shall apply to all present Council members and Mayor.

### SECTION 5.03. INTRODUCTION AND ADOPTION OF ORDINANCES.

A proposed ordinance may be introduced by any Council member at any regular or special meeting of the Council. Every proposed ordinance shall be introduced in written or printed form after review by the City Attorney. It shall be in the form required by the Council for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be, "The City of Beavercreek hereby ordains..." A written summary shall also accompany each proposed ordinance at the time of introduction. The fact that the summary contains errors or is incomplete shall not affect the validity of any ordinance.

(A) ***First Reading and Public Hearing.*** Upon introduction of any proposed ordinance, a copy shall be distributed to each Council member and to the City Manager, and **at the date, time and place of the Council meeting so published, the summary of the proposed ordinance shall be read unless a member of the Council present requests a reading of the ordinance in full. All persons present shall be given an opportunity to be heard on the proposed ordinance subject to the rules of the Council.** ~~the summary of the proposed ordinance shall be read.~~

After the first reading and upon approval for ~~an~~ additional readings by the Council, the Clerk shall: file copies of the proposed ordinance in ~~the~~ office of the Clerk of Council; post the proposed ordinance in full in the city offices; and publish one time the summary of the proposed ordinance or the ordinance in full in one or more newspapers or other printed publication regularly distributed and of general circulation in the City or public media forums as required by law ~~of The publication of the ordinance shall also include the date, time and place of for a public hearing, and for the third~~ **second** reading and ~~final consideration on the proposed ordinance.~~ The public hearing on the proposed ordinance shall follow the publication by at least seven (7) days. The public hearing shall be held in connection with a regular or special Council meeting, and may adjourn from time to time.

(B) ***Second Reading and Public Hearing.*** At the date, time and place of the Council meeting so advertised, the summary of the proposed ordinance shall be read for the second time, unless a member of the Council present requests a reading of the ordinance in full. All persons present shall be given an opportunity to be heard on the proposed ordinance subject to the rules of the Council. Following this hearing, the Council may cause the proposed ordinance to be returned to the first reading, or proceed to the third reading—**At the second reading Council may adopt such ordinance by an affirmative vote of the majority of the members of Council, except that if an amendment changes it as to any matter of substance. In such case, the Council shall not adopt the ordinance until it shall have caused a summary of the amended ordinance to be published at least once, together with a notice of the date, time and place where such amended ordinance will further be considered. A public hearing on the amended ordinance shall be held. After such hearing, the Council may adopt such amended ordinance or again amend it subject to the same conditions. Council may also, by an affirmative vote of the majority of the members of Council, request the Ordinance be advanced for a third reading prior to adoption. Council may also at the second reading on motion give an opportunity for all persons present to be heard on the ordinance, subject to the rules of Council.**

~~—(C) *Third Reading and Adoption.* At the next meeting of the Council following the public meeting, the summary of the proposed ordinance shall be read for the third time. After such reading, the Council may adopt such ordinance by an affirmative vote of the majority of the members of Council, except that if an amendment changes it as to any matter of substance. In such case, the Council shall not adopt the ordinance until it shall have caused a summary of the amended ordinance to be published at least once, together with a notice of the date, time and place where such amended ordinance will further be considered. A public hearing on the amended ordinance shall be held. After such hearing, the Council may adopt such amended ordinance or again amend it subject to the same conditions.~~

(D) ***Notice of Adoption.*** Within ten days after adoption of any ordinance, the Clerk shall post the summary of the ordinance in a designated place for public view in City Hall, and shall publish one time the summary of the ordinance or the ordinance in full in one or more

newspapers or other printed publication regularly distributed of general circulation in the City, or public media forums as required by law together with a notice of its adoption.

#### **SECTION 6.01. APPOINTMENT; QUALIFICATIONS; COMPENSATION.**

The Council, by an affirmative vote of ~~the majority of~~ **five (5)** members of Council, shall appoint a City Manager and shall authorize the Mayor to sign on behalf of the Council, a contract with the City Manager setting forth the terms of employment, compensation, and separation from employment with the City Manager as deemed appropriate by the Council. No term established herein shall establish an expectation of continued employment except as provided in the contract. ~~At the time of the appointment, the City Manager need not be a resident of the City, but shall become a resident within six months after appointment, unless otherwise authorized by the Council and shall reside therein during his or her tenure.~~

#### **SECTION 6.03. REMOVAL.**

The City Manager shall be subject to removal by the Council at any time by an affirmative vote of ~~the majority~~ **five (5) members** of the Council. In any case, the former Manager shall be paid all due sums pursuant to any contractual agreement the City Manager may have with the City, or in the event there is no contract, the former City Manager shall be paid any unpaid balance of salary and benefits.

#### **SECTION 9.02. GENERAL RULES FOR BOARDS AND COMMISSIONS.**

Unless otherwise provided for in this Charter:

(1) Each Board or Commission created in Section 9.01 shall consist of members appointed by the Council for overlapping terms of three years. Members of the first boards shall be appointed for terms of one, two, and three years, respectively. Thereafter, all members of boards and commissions shall be appointed for the full three-year term.

(2) Appointments and removals shall be subject to the procedures as specified in the Administrative Code.

(3) Each member of a Board or Commission of the City shall be and shall remain an elector of the City.

(4) Members of a Board or Commission of the City shall not hold any other elected or appointed office in the City or be an employee thereof **unless otherwise designated by Council.**

(5) A vacancy occurring during the term of any member of a Board or Commission shall be filled for the unexpired term in the same manner as original appointments.

(6) Vacancies shall be filled within sixty (60) days.

(7) Each Board and Commission shall keep ~~a journal~~ **minutes** of its proceedings. An affirmative vote of a majority of all members shall be necessary to adopt any question, motion, or order.

(8) Each Board and Commission shall establish its own operating procedures.

(9) All members of Boards and Commissions shall serve without compensation unless otherwise provided for by the Council.

(10) Boards and Commissions shall perform all duties and functions imposed upon them by this Charter and by the Council.

**CITY OF BEAVERCREEK  
RESOLUTION NO. 19-31**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE  
PURCHASING, TRAVEL AND PETTY CASH POLICIES AND  
AUTHORIZING THE CITY MANAGER TO AMEND THESE POLICIES AS  
NEEDED IN ACCORDANCE WITH THE CITY CHARTER'S GRANT OF  
AUTHORITY TO THE CITY MANAGER**

**WHEREAS**, City Council has previously approved a purchasing policy by Resolution 07-20; a travel policy by Resolution 12-48 and a petty cash policy by Resolution 07-19; and

**WHEREAS**, City Council has determined that the City Manager has the authority to approve and amend purchasing, travel and petty cash policies in accordance with the City Manager's authority in Section 6.02 of the City Charter; and

**WHEREAS**, City Council has ultimate oversight of City expenditures by way of the Annual Appropriation Ordinance passed in accordance with Section 10.10 of the City Charter; and

**WHEREAS**, the Finance Administrative Services Director and the Law Director recommend City Council authorize the City Manager to approve and amend the purchasing, travel and petty cash policies in accordance with the City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BEAVERCREEK, STATE OF OHIO, THAT:**

SECTION I. City Council hereby accepts the recommendation of the Finance Administrative Services Director and the Law Director and authorizes the City Manager to approve and amend the purchasing, travel and petty cash policies in accordance with the authority granted to the City Manager per the City Charter.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this 28<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE  
PURCHASING, TRAVEL AND PETTY CASH POLICIES AND  
AUTHORIZING THE CITY MANAGER TO AMEND THESE POLICIES AS  
NEEDED IN ACCORDANCE WITH THE CITY CHARTER'S GRANT OF  
AUTHORITY TO THE CITY MANAGER**

**ORDINANCE NO. 19-09**

**CITY OF BEAVERCREEK**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**AN ORDINANCE REPEALING CURRENT SECTION 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTING NEW SECTION 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" AND REPEALING SECTION 31.17 "EXPENSES OF COUNCIL" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.**

**WHEREAS**, the City of Beavercreek Code of Ordinances contains outdated processes for reimbursement of Councilmembers; and

**WHEREAS**, the City Council has determined that it would be in the best interest of the City to remove the outdated processes from the Beavercreek Code of Ordinances.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK, COUNTY OF GREENE, OHIO, HEREBY ORDAINS:**

**SECTION I.**

Current section 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" of the City of Beavercreek Code of Ordinances is hereby repealed, and new section 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" is hereby enacted as follows with new language in **bold** and text to be deleted in ~~strikeout~~.

**§ 31.01 REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES.**

Members of Council shall be reimbursed for certain necessary and reasonable expenses incurred in the performance of their official duties **in accordance with the relevant administrative processes of the city.**

~~Reimbursement authorized by this resolution shall be limited to the following particular expenses:~~

~~—(A) For use of their personal automobiles outside the city to attend meetings of organizations to which they serve as representatives by designation of this Council.~~

~~—(B) For long distance telephone calls made in carrying out their duties as Councilmembers.~~

~~—(C) For transportation, food and other incidental expenses of attending educational presentations by the Ohio Municipal League and similar organizations, but only to the extent attendance at any particular meeting is authorized by subsequent passage of a motion by this Council.~~

Current Section 31.17 of the City of Beavercreek Code of Ordinances is repealed in its entirety.

~~**§ 31.17 EXPENSES OF COUNCIL.**~~

~~All Councilmembers shall substantiate all expenses incurred in connection with official duties in all cases. Mileage shall be reimbursed at the rate established by the city for actual miles traveled outside the city limits. If such travel was by some method other than automobile, the amount of reimbursement shall be the actual charges in connection with such travel and supported by appropriate receipt.~~

- ~~—(A) Councilmembers may, by resolution, stating the exact purpose thereof, receive their necessary and reasonable expenses incurred in the performance of their official duties.~~
- ~~—(B) Expenses incurred in performance of duties within Greene and Montgomery counties shall not exceed \$20 per month per member. In the event that expenses exceed this limit, Council approval is required before reimbursement can be made.~~
- ~~—(C) Expenses incurred in the performance of duties outside Greene and Montgomery counties shall be approved in advance by Council at which time the upper limit for the expenses shall be established.~~
- ~~—(D) In any case where it may be advisable for an official to represent the city at an event outside Greene and Montgomery counties, where sufficient notification of the event precludes prior Council approval, an aggregate sum of \$100 per year per member shall be established as the maximum limit for expenses incurred in these events.~~
- ~~—(E) All expense claims, including those made on behalf of any member by the city, shall be submitted to the Director of Finance on a monthly basis not later than the fifteenth day of the month following the incurring of the expenses. Copies shall be distributed to members of Council as soon as practical.~~
- ~~—(F) Necessary telephone expenses will be paid.~~

## SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

## SECTION III.

This Ordinance shall take effect at the earliest date allowed by law.

SECTION III: This Ordinance shall take effect at the earliest time allowed by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

## **SUMMARY**

**AN ORDINANCE REPEALING CURRENT SECTION 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTING NEW SECTION 31.01 "REIMBURSEMENT OF COUNCILMEMBERS FOR EXPENSES" AND REPEALING SECTION 31.17 "EXPENSES OF COUNCIL" OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES.**

**ORDINANCE NO. 19-10**

**CITY OF BEAVERCREEK**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**AN ORDINANCE REPEALING CURRENT SECTIONS 35.17 AND 35.18 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTING NEW SECTIONS 35.17 AND 35.18 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES IN ORDER TO REVISE COMPETITIVE BIDDING REQUIREMENTS**

**WHEREAS**, the Ohio Revised Code competitive bidding threshold changes from time to time and the City of Beavercreek Code of Ordinances references outdated Ohio Revised Code requirements; and

**WHEREAS**, the City Council has determined that it would be in the best interest of the City to revise the Beavercreek Code of Ordinances in such a way as to be consistent with state law.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK, COUNTY OF GREENE, OHIO, HEREBY ORDAINS:**

**SECTION I.**

Current section 35.17 "COMPETITIVE BIDDING PROCEDURE" of the City of Beavercreek Code of Ordinances is hereby repealed, and new section 35.17 "COMPETITIVE BIDDING PROCEDURE" is hereby enacted as follows with new language in **bold** and text to be deleted in ~~strikeout~~.

**§ 35.17 COMPETITIVE BIDDING PROCEDURE.**

(A) In accordance with Charter Section 10.08, purchases of all commodities ~~estimated to cost \$25,000 or more~~ shall be from the lowest and best bidder, pursuant to specifications in open competitive bidding, under the procedures set forth in this chapter **unless an exception to competitive bidding applies. The Ohio Revised Codes sets forth a minimum threshold amount which triggers the requirement for competitive bidding, and competitive bidding procedures need not be followed if the purchase amount is equal to or less than the threshold amount set forth in the Ohio Revised Code.**

(B) (1) A notice inviting bids shall be prepared. Such notice shall:

- (a) Be published twice in a newspaper in general circulation in the city;
- (b) Include a general description of the items to be purchased;
- (c) State where bid blanks and specifications may be secured;
- (d) State the date, time and place for opening bids.

(2) The sealed bids shall be open in public at the date, time, and place stated in the notice inviting bids, no earlier than one week after the second publication. A tabulation of all bids received shall be available for public inspection.

(3) In exercising the provisions of this section, the City Manager is authorized and directed to establish the conditions of competitive bidding pursuant to this chapter, including, but not limited to, the necessity, type, and amount, if any, of bid or performance surety, time for performance, penalties or bonuses for late or early performance, specifications, experience qualifications, disclosure of interested parties, alternatives, conditions or substitutions, and form of contract.

Current section 35.18 "PROCEDURE FOR PURCHASES NOT REQUIRING COMPETITIVE BIDDING" of the City of Beavercreek Code of Ordinances is hereby repealed, and new section 35.18 "PROCEDURE FOR PURCHASES NOT REQUIRING COMPETITIVE BIDDING" is hereby enacted as follows with new language in bold and text to be deleted in ~~strikeout~~.

### **§ 35.18 PROCEDURE FOR PURCHASES NOT REQUIRING COMPETITIVE BIDDING.**

(A) Competitive bidding is not required for the following purchases:

(1) Purchase of commodities which are estimated to cost less than \$25,000 **the threshold amount set forth in the Ohio Revised Code.**

(2) Purchase of all items and services which are not "commodities."

(3) Immediate purchase of commodities required in case of public emergency affecting life, health, property and welfare. The City Manager shall have the authority to determine when an emergency exists requiring such immediate purchases. In such cases a copy of the order issued shall be filed with the Clerk of Council, together with a certificate from the City Manager, stating the facts of the emergency.

(B) Purchases shall be made from a responsible supplier offering the lowest and best combination of terms, price, quality and other matters affecting the purchase. Whenever reasonably practicable, purchases shall be based on at least three competitive price quotes.

### SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

### SECTION III.

This Ordinance shall take effect at the earliest date allowed by law.

SECTION III: This Ordinance shall take effect at the earliest time allowed by law.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**AN ORDINANCE REPEALING CURRENT SECTIONS 35.17 AND 35.18 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES AND ADOPTING NEW SECTIONS 35.17 AND 35.18 OF THE CITY OF BEAVERCREEK CODE OF ORDINANCES IN ORDER TO REVISE COMPETITIVE BIDDING REQUIREMENTS**

**CITY OF BEAVERCREEK  
RESOLUTION NO. 19-32**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**A RESOLUTION REPEALING RESOLUTION 07-19 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**WHEREAS**, Council previously adopted Resolution 07-19 approving a petty cash policy;  
and

**WHEREAS**, the petty cash policy needs to be updated and Council seeks to authorize the City Manager to adopt and amend policies of this nature in accordance with Section 6.02 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BEAVERCREEK, STATE OF OHIO, THAT:**

SECTION I. City Council hereby repeals Resolution 07-19.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this 28<sup>th</sup> day of May 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**A RESOLUTION REPEALING RESOLUTION 07-19 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**CITY OF BEAVERCREEK  
RESOLUTION NO. 19-33**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**A RESOLUTION REPEALING RESOLUTION 07-20 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**WHEREAS**, Council previously adopted Resolution 07-20 approving a purchasing policy;  
and

**WHEREAS**, the purchasing policy needs to be updated and Council seeks to authorize the City Manager to adopt and amend policies of this nature in accordance with Section 6.02 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BEAVERCREEK, STATE OF OHIO, THAT:**

SECTION I. City Council hereby repeals Resolution 07-20.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this 28<sup>th</sup> day of May 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**A RESOLUTION REPEALING RESOLUTION 07-20 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**CITY OF BEAVERCREEK  
RESOLUTION NO. 19-34**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**A RESOLUTION REPEALING RESOLUTION 12-48 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**WHEREAS**, Council previously adopted Resolution 12-48 approving a purchasing policy;  
and

**WHEREAS**, the travel policy needs to be updated and Council seeks to authorize the City Manager to adopt and amend policies of this nature in accordance with Section 6.02 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BEAVERCREEK, STATE OF OHIO, THAT:**

SECTION I. City Council hereby repeals Resolution 12-48.

SECTION II: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

PASSED this 28<sup>th</sup> day of May 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**A RESOLUTION REPEALING RESOLUTION 12-48 IN ORDER TO  
ALLOW THE CITY MANAGER TO EXERCISE AUTHORITY GRANTED  
PER THE CITY CHARTER**

**CITY OF BEAVERCREEK  
CITY COUNCIL  
AGENDA ITEM REPORT**

<b>Meeting Date:</b> May 28, 2019	<b>Reference Topic:</b> Beaver Creek Soccer Agreement
<b>Agenda Reference No.:</b> V. L.	Resolution 19-35

<b>ACTION REQUESTED</b>		
<input type="checkbox"/> Adopt Ordinance	<input checked="" type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input checked="" type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other _____

<b>RESPONSIBLE DEPARTMENT OR AGENCY</b>		
<input type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input checked="" type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input type="checkbox"/> Planning & Zoning
<input type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other _____

**BACKGROUND AND STAFF SUMMARY:**

The City of Beavercreek has had a lease agreement with the Beavercreek Soccer Association (BSA) since 1994. BSA owns the majority of the soccer complex known as Ankeney Soccer Complex, while the City owns 25 acres of the 60+ acres. The attached lease continues the agreement for the next 5 years and continues in 5 year increments unless one of the parties terminates the agreement.

Beavercreek Soccer Association operates and maintains the entire soccer complex including turf maintenance and scheduling games and tournaments. The City Parks, Recreation & Culture Department runs their adult soccer league at the complex using 2 of the fields.

**STAFF RECOMMENDATION:**

Staff recommends approval of the resolution to authorize the City Manager to sign the Beavercreek Soccer Association agreement.

**CITY OF BEAVERCREEK, OHIO  
RESOLUTION NO. 19-35**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>th</sup> DAY OF  
MAY, 2019.

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
ENTER INTO A LEASE AGREEMENT WITH THE  
BEAVERCREEK SOCCER ASSOCIATION**

WHEREAS, the City of Beavercreek and Beavercreek Soccer Association desire to enter into an agreement which will allow BSA to use the City's portion of the Ankeney Soccer Complex; and

WHEREAS, the City of Beavercreek and Beavercreek Soccer Association entered into a comparable agreement commencing in April 1994 and seek to continue their relationship.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERCREEK, OHIO, THAT:

**SECTION I.**

The Council authorizes the City Manager to sign on behalf of the City of Beavercreek the Agreement for Beavercreek Soccer Association Lease Agreement.

**SECTION II.**

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements, including but not limited to Section 121.22 of the Ohio Revised Code.

SECTION III.

This resolution shall become effective immediately upon passage.

Passed this 28<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

Attest:

\_\_\_\_\_  
Dianne Miscisin, Clerk of Council

## LEASE AGREEMENT

This Lease is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the CITY OF BEAVERCREEK, hereinafter referred to as "Lessor" an Ohio municipal corporation, and THE BEAVERCREEK SOCCER ASSOCIATION, hereinafter referred to as "Lessee", an Ohio nonprofit corporation, P. O, Box 340123, Beavercreek, Ohio 45434-0123.

WHEREAS, the parties entered into a Lease Agreement dated April 28, 1994; for certain real property and premises for use as a soccer facility; and

WHEREAS, the City of Beavercreek, the herein Lessor, subsequently conveyed said premises for another purpose and in accordance with the Lease Agreement provided Lessee with a replacement soccer facility, and

WHEREAS, the parties have purchased contiguous real property for the usage as a soccer facility; and

WHEREAS, the herein Lessor and the Lessee now desire to modify and revise the lease for the benefit of Lessor and Lessee:

NOW, THEREFORE, in consideration of the rents to be paid by Lessee to Lessor, and in further consideration of the covenants, promises, terms, and conditions of this Lease, and the parties mutual cooperation in ownership of the soccer facility, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, that certain property, hereinafter referred to as the "Premises" situated in the City of Beavercreek, Ohio, and more particularly described in Exhibit "A", attached hereto and incorporated herein.

1. This Lease shall have an effective date of \_\_\_\_\_, 2019.
2. Lease Term. The Lease term shall be in five (5) year increments, commencing \_\_\_\_\_. At the expiration of this initial, five year term, this Lease shall automatically renew for an additional term of five years (in perpetuity), unless the Lease is terminated pursuant to the provisions of this Agreement. This lease may be terminated at any time during which it is in effect for any reason whatsoever by mutual agreement and consent of both Lessor and Lessee.

3. Rent. As rent for the Premises, Lessee agrees to pay to Lessor at Lessor's address, 789 Orchard Lane, Beavercreek, Ohio, 43434, the sum of One Hundred Dollars and no cents (\$100) in a single payment, which shall be paid in advance, annually, on or before the first day of August of each year during which this Lease is in effect and force.
4. Utilities. In the event that Lessee requires any additional public utility services to be provided to any portion or all of the Premises, Lessee agrees to pay for such public utility services, and for all costs of installing same on the Premises. Any cost for the installation of any utility that is financed by a mutually agreed to special assessment levied against the Premises shall be equally shared by the Lessor and Lessee.

Lessee shall maintain such public utility accounts in its name and timely pay all such charges directly to the provider(s) of such utility. Any substantial, permanent utility additions and related easements to the Premises shall be made only with Lessor's prior written consent and approval, which Lessor shall not withhold unreasonably. Lessee may make minor utility improvements and repair without Lessor's prior written consent and approval. All utility improvements or additions made by or caused to be made by Lessee shall be made in a safe and workmanlike manner. Upon the termination or expiration of this Lease, all such improvements or additions thereto shall remain installed on the Premises, becoming the property of the Lessor and shall not be removed.

5. Use of Premises. Lessee agrees that its use of the Premises shall comply with all applicable laws, regulations and rules, whether federal, state, local, including lawfully adopted regulations, rules and ordinances of the City of Beavercreek. Lessee and Lessor shall confine its use of the Premises to the operation of its Youth Soccer Program and for such other uses as may be appurtenant thereto and consistent with the use of the land as a "turf related" (ex. Ultimate Frisbee, Lacrosse, etc.) complex.

All uses or scheduling of uses upon the Premises by any party other than the Lessor or Lessee shall be mutually pre-approved by both parties.

Lessee shall prohibit alcoholic beverages of any kinds, including beer, from being sold or served on the Premises and shall take all reasonable efforts to assure that alcoholic beverages are not consumed on the Premises at any time. Lessee agrees to post signs at the Premises stating this policy.

Lessee shall fully comply with the City of Beavercreek ordinances and regulations governing outdoor and temporary sales.

Lessee shall exert all reasonable effort to comply with the City of Beaver Creek zoning provisions governing noise levels.

Excluding the temporary use of tents during tournaments sponsored by Lessee for the purposes of security or shade and shelter from adverse weather, no tents or temporary structures shall be erected or installed on the Premises without the Lessor's prior written consent, which shall not be withheld unreasonably. No overnight camping shall be permitted on the Premises without the Lessor's prior written consent and such consent shall not be withheld unreasonably for limited overnight camping for security purposes during tournaments sponsored by Lessee.

6. Risk of Loss. Lessee agrees that all personal property, buildings and improvements that may be at any time on or in the Premises shall be a Lessee's sole risk, or at the risk of those claiming under the Lessee. Lessor shall not be liable for any damage to or loss of such property or damage or loss suffered by the Lessee, its guests, or invitees, resulting from the occupation and use of the Premises by the Lessee.
7. Lessor Entry and Inspection. Lessee agrees that Lessor or its agents may enter the Premises at all and any reasonable times to examine and inspect the Premises. Emergency, medical, fire or police personnel of Lessor or any other political subdivision may enter upon the Premises at any time. Lessor may enter the Premises at all reasonable times to inspect or to make repairs that Lessor may choose to make. In such event Lessor's entry shall not disturb Lessee's rights without Lessee's consent, and shall be in accordance with the provision of Section 8 of this Lease.
8. Lessee Alterations and Improvements. Neither Lessee nor Lessor shall make any major alterations or major additions to or upon the Premises without the prior written consent of the other respective party, and such consent shall not be withheld unreasonably. All alterations, improvements or additions to the Premises shall remain for the benefit of Lessor unless otherwise provided for and agreed to in writing by Lessee and Lessor. Lessee agrees to indemnify and save harmless the Lessor for all expenses, liens, claims or damages to either person or property on the Premises which arise out of or resulting from, directly or indirectly, lessee's undertaking or making of any alterations, additions or improvements.
9. Adjoining Lands. Lessee agrees to take such measures as are reasonably necessary to prevent persons using the Premises from entering in or upon any privately owned adjoining lands or property not otherwise in control of Lessee.

10. No Waste to Be Committed. Lessee agrees that it will not commit waste on or of the leased Premises and to comply with the Lessor and Greene County Health Department regulations. Lessee further agrees that it will not cultivate the Premises, will not raise any livestock on the Premises and, except for reasonable tree trimming, will not cut timber on the Premises without the prior written consent of the Lessor.
11. Fires and Cookouts. No fires shall be permitted on the Premises except for recreational, noncommercial cookouts and barbecues conducted by Lessee. Such cookouts and barbecues shall at all times be under the strict control and supervision of Lessee. Lessee shall further restrict all fires to grills or containers suitable for such purposes and in no event shall ground fire rings be permitted on the Premises. Cookouts and barbecues for the purposes of providing food items to those persons participating in or viewing authorized recreational activities on the Premises shall be considered noncommercial. Any food service or provision of food items conducted by or caused to be conducted by Lessee on the Premises shall be in accordance with and adhere to all applicable Greene County Combined Health District regulations. Lessee will refrain from fires, cookouts or grilling on premises during periods of extremely dry weather.
12. Maintenance. Lessee agrees to accept as is the improvements located on the leased Premises. Lessee shall keep the Premises in good and safe condition and repair and will deliver the Premises at the termination of this Lease in equivalent or improved condition, subject to normal wear and tear and reasonable use. Lessee agrees that it will maintain the Premises in good and safe condition and repair at Lessee's sole cost and expense and pursuant to the terms, conditions and Lessor obligations of this Lease. Lessor may, at its sole option, undertake such maintenance to the Premises (without changing the nature or layout of the Premises) as it so desires and in such event will notify the Lessee in writing of such maintenance activities. Lessee agrees to and shall cause the following:
- a. Maintain on the Premises garbage and trash receptacles and containers of suitable quantity and quality. All trash shall be removed from the Premises no less frequently than once weekly, or more often if necessary to maintain the Premises in a safe, clean, neat, sanitary and orderly condition.
  - b. The mowing, fertilizing, seeding and weed control of the grass areas and soccer fields on the Premises.
  - c. The marking and lining of the soccer fields during soccer season(s).

- d. The maintenance and repair of any buildings located on the leased premises.
  - e. The maintenance and repair of all driveways and paved surfaces.
  - f. The maintenance and repair of the perimeter fencing.
  - g. The provision and regular servicing of portable toilets.
13. Concession Sales. Lessee is authorized to operate a concession for the sale of food, beverages and soccer related items on the premises from and around the building designated for that purpose. The proceeds from the sale of all food, beverages and soccer related items as a result of the concession sales of the Lessee shall be the sole property of Lessee. Lessee shall not seek from Lessor any assistance in these sales and shall hold Lessor harmless from any and all liability incurred as a result of Lessee's concession sales.
14. Insurance and Indemnification. Lessee agrees to provide to Lessor satisfactory evidence of current and continual property and liability insurance coverage at all times while this Lease is in effect. Such insurance coverage shall provide as additional insureds: the City of Beavercreek, its officials, agents, employees and volunteers. Such insurance shall provide a minimum coverage of \$1,000,000.00 combined single limit, per occurrence, for bodily injury, personal injury and property damage or loss. A current insurance certificate shall be provided to Lessor upon renewal or at such time as a new insurance policy becomes effective.

Lessee agrees to fully indemnify and hold harmless Lessor from and against any and all liability, loss, expense, cost, claim, damage, cause of action, or demand, of any kind; arising out of or flowing from, directly or indirectly, Lessee's use or occupancy of the Premises or any provision of this Lease. Furthermore, Lessee agrees to defend, upon Lessor's request, the Lessor at Lessee's expense, including paying Lessor's reasonable attorney's fees. Lessor may participate in its own defense, without loss or waiver of its right to indemnification under this paragraph for its costs and expenses arising out of such participation. This indemnity includes Lessor's reasonable attorney fees and costs of defending any and all actions, suits or claims, whether legal, equitable or administrative, arising out of or in connection with this Lease or lessee's activities upon the Premises.

15. Default. If the rent is due under this Lease or any part of the rent shall remain unpaid and in arrears for thirty (30) days after it is due and without demand being made for such rent, or if a petition in bankruptcy is filed by the Lessee, or if the Lessee shall be adjudged a bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy of the Lessee shall be appointed, or the Lease shall be assigned without the prior consent of the Lessor, then in each such case, the Lease shall be in default and upon the Lessor mailing a notice to Lessee at the address provided in this Lease that the Lease is terminated, it shall be lawful for Lessor to recover possession of the Premises and upon the mailing of the notice, the term hereby granted shall immediately cease without prejudice to any other remedies to which the Lessor may be entitled.

If Lessee shall violate any of the other terms, conditions, obligations or covenants of this Lease, and such violation shall continue and shall not be corrected by Lessee within a period of thirty (30) days after the date Lessee receives Lessor's written notice to correct such violation, Lessor may terminate this Lease by giving Lessee three (3) days written notice of termination to the Lessee. Lessor shall be entitled to recover possession of the Premises by summary proceedings. Upon the mailing of said notice, this Lease shall immediately cease without prejudice to any other remedies to which lessor may be entitled.

Upon the termination of this Lease for any reason, the Lessor shall have the immediate right of reentry onto the leased Premises, and to take possession of the Premises. If at the time of termination the Lessee owes Lessor any sum or amount of money or funds under the terms and conditions of this Lease, the Lessor shall have the right to recover from Lessee such sum or amount and any or all other provable damages and attorneys' fees to the fullest extent permitted by law.

16. No Waiver. Any failure of the Lessor to enforce rights or seek remedies upon a default of the Lessee under this Lease shall not prejudice or affect the rights and remedies of the Lessor in the event of any subsequent default.
17. Assignment. Neither party shall assign any interest under the Lease, or sublet or license its rights in the Premises or allow use of the premises by others than the parties to this agreement without the prior written approval of the other party. Any assignment, subletting, license or other agreement to which the Lessor may consent, shall not discharge Lessee from its obligations under this Lease. Lessee shall remain fully liable for the performance of all covenants and obligations under this Lease unless Lessor shall provide to the contrary in any document permitting or consenting to such assignment, subletting, license or other agreement. An assignment for the benefit of creditors of Lessee or by operation of law shall not be effective

to transfer or assign the Lessee's interest in this Lease unless the Lessor has first consented to such assignment in writing.

18. Easements. The existing easements of Media One Cable Company and its successors or assigns and Greene Comity across the Premises shall not be disturbed by the Lessee. Both parties have and hereby grants to the other party a non-exclusive easement across the Premises for the purposes of ingress and agree to any lands or property adjoining the Premises which are owned by the other party.
19. Notices. All notices required under this Lease shall be in writing and shall be hand delivered or delivered by U.S. mail, postage prepaid, certified, return receipt (green card) requested, to the respective parties at the addresses set forth below:

LESSOR:  
City Manager  
City of Beavercreek  
1368 Research Park Drive Beavercreek, OH 45432

LESSEE:  
The Beavercreek Soccer Association P. O. Box 340123  
Beavercreek, OH 45431-0123

Plus

The then current name and address of that person the City of Beavercreek Department of Parks, Recreation and Culture has on file as the Executive Director of the Beavercreek Soccer Association.

20. Entire Agreement. Lessor and Lessee understand and agree that this Lease constitutes the entire agreement between the Lessor and Lessee and supersedes any prior or contemporaneous discussions or written or oral agreements.
21. Applicable Law. This Lease has been made in the State of Ohio and the laws of Ohio shall govern this Lease.

IN WITNESS WHEREOF, the Lessor and Lessee, by their representatives who have been duly authorized, have signed this Lease.

Signed in the presence of:

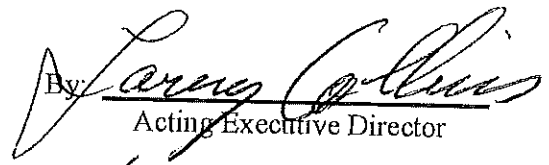
LESSOR:  
CITY OF BEAVERCREEK

\_\_\_\_\_

By: \_\_\_\_\_  
Pete E. Landrum,

LESSEE:  
THE BEAVERCREEK SOCCER  
ASSOCIATION

\_\_\_\_\_

By:   
Acting Executive Director  
LARRY COLLINS

**CITY OF BEAVERCREEK  
RESOLUTION NO. 19-36**

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 28<sup>TH</sup> DAY OF MAY, 2019.

**STRONGLY URGING THE OHIO GOVERNOR AND MEMBERS OF THE  
OHIO GENERAL ASSEMBLY TO RESTORE THE LOCAL  
GOVERNMENT FUND TO PRE-RECESSION LEVELS**

**WHEREAS**, the Local Government Fund was reduced in 2011 by 50% during the Kasich Administration, from 3.68% of General Revenue Funds to its current level of 1.66% of General Revenue Funds; and

**WHEREAS**, past Ohio General Assemblies have repeatedly decreased funding and revenue sharing in recent years in addition to significantly reducing the Local Government Fund, including eliminating the Estate Tax and phasing out the Tangible Personal Property Tax; and

**WHEREAS**, these reductions have resulted in a loss of revenue of eight million four hundred thousand dollars (\$8.4m) since the State's reduction began in 2012; and

**WHEREAS**, this sudden revenue loss has made it increasingly difficult to provide basic services, rebuild infrastructure, and bolster public safety services to fight the opioid epidemic; and

**WHEREAS**, when municipalities experience success in fostering safe communities, building sound infrastructure, and increasing economic development, the State of Ohio reaps the benefits as well.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BEAVERCREEK, STATE OF OHIO, THAT:**

Section I. We encourage the Ohio General Assembly to restore the Local Government Fund to at least 30% increase for FY 20 and 10% increase in FY 21 with the goal of full pre-recession levels in the near future, ensuring that these local communities are able to provide crucial services and improvements in infrastructure and public safety.

Section II. This Council does hereby declare its opposition any further cuts to the Local Government Fund or the future diversion of revenues from the Local Government Fund.

PASSED this 28<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

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Dianne Miscisin, Clerk of Council

**SUMMARY**

**STRONGLY URGING THE OHIO GOVERNOR AND MEMBERS OF THE  
OHIO GENERAL ASSEMBLY TO RESTORE THE LOCAL  
GOVERNMENT FUND TO PRE-RECESSION LEVELS**

CITY OF BEAVERCREEK  
CITY COUNCIL  
AGENDA ITEM REPORT

Meeting Date: May 28, 2019  Agenda Reference No: VI. A.	Reference Topic: Transfer Liquor Permit 1504 Falcons Food LLC DBA TGI Fridays
	Motion to Accept Without Comment

ACTION REQUESTED		
<input type="checkbox"/> Adopt Ordinance	<input type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input checked="" type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input type="checkbox"/> Planning & Zoning
<input checked="" type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other _____

**BACKGROUND AND STAFF SUMMARY:**

Ohio Division of Liquor Control sent police notification of a request to transfer a D5 and D6 liquor permit from Ohio Valley Bistros Inc. DBA TGI Fridays, 2799 Centre Dr. Beaver creek, Ohio 45324 to 1504 Falcons Food LLC., DBA TGI Fridays, 2799 Centre Dr. Beaver creek, Ohio 45324. The background checks required by the Department of Commerce -Division of Liquor Control were conducted on the business officer(s)/shareholder(s) for this application request.

**STAFF RECOMMENDATION:**

Staff is recommending this application request move forward without comment.

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

6526753			TRFO	1504 FALCONS FOOD LLC	
PERMIT NUMBER			TYPE	DBA TGI FRIDAYS	
06	01	2018	2799 CENTRE DR		
ISSUE DATE			BEAVERCREEK OH 45324		
05	08	2019			
FILING DATE					
D5 D6					
PERMIT CLASSES					
29	005	A	F22334		
TAX DISTRICT			RECEIPT NO.		

FROM 05/10/2019

65228990010				OHIO VALLEY BISTROS INC	
PERMIT NUMBER			TYPE	DBA TGI FRIDAYS	
06	01	2018	2799 CENTRE DR		
ISSUE DATE			BEAVERCREEK OHIO 45324		
05	08	2019			
FILING DATE					
D5 D6					
PERMIT CLASSES					
29	005				
TAX DISTRICT			RECEIPT NO.		



MAILED 05/10/2019

RESPONSES MUST BE POSTMARKED NO LATER THAN. 06/10/2019

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.  
REFER TO THIS NUMBER IN ALL INQUIRIES **A TRFO 6526753**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- ☐ Clerk of County Commissioner

(Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF BEAVERCREEK CITY COUNCIL  
1368 RESEARCH PARK DR  
BEAVERCREEK OHIO 45432

## Restaurant / Night Club

Permit Class	Permit Fee	Description
D1	\$376	<a href="#">ORC 4303.13</a> Beer only for on premises consumption or in original sealed containers for carry out only until 1:00am.
D2	\$564	<a href="#">ORC 4303.14</a> Wine and mixed beverages for on premises consumption or in original sealed containers for carryout only until 1:00am.
D2X	\$376	<a href="#">ORC 4303.141</a> (Grandfathered Permit) Beer only for on premises consumption or in original sealed containers for carryout only until 1:00am.
D3	\$750	<a href="#">ORC 4303.15</a> Spirituous liquor for on premises consumption only until 1:00am.
D3X	\$300	<a href="#">ORC 4303.151</a> (Grandfathered Permit) Wine only for on premises consumption until 1:00am.
D3A	\$938	<a href="#">ORC 4303.16</a> Extend issued permit privileges until 2:30am.
D5	\$2,344	<a href="#">ORC 4303.18</a> Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am.
D5I	\$2,344	<a href="#">ORC 4303.181</a> (Same as D5). Restaurant meeting certain criteria.
D7	\$469	<a href="#">ORC 4303.183</a> (Same as D5). RESORT area only.

## >Club

Permit Class	Permit Fee	Description
D4	\$469	<a href="#">ORC 4303.17</a> Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am.
D4A	\$750	<a href="#">ORC 4303.171</a> Airline club only - Beer and any intoxicating to members and guests until 2:00am.
D5C	\$1,563	<a href="#">ORC 4303.181</a> (Same as D5.)(This class can no longer be applied for.)
D5D	\$2,344	<a href="#">ORC 4303.181</a> (Same as D5) located at airport.

## Hotel And Motel

Permit Class	Permit Fee	Description
D5A	\$2,344	<a href="#">ORC 4303.181</a> (Same as D5) for hotel or motel with 50 or more rooms for transient guests.

## Enclosed Shopping Mall

Permit Class	Permit Fee	Description
D5B	\$2,344	<a href="#">ORC 4303.181</a> (Same as D5) for enclosed shopping mall.

## River Boats

Permit Class	Permit Fee	Description
D5E	\$1,219	<a href="#">ORC 4303.181</a> (Same as D5). Historical river boat owned by charitable organization only.

## Marinas

Permit Class	Permit Fee	Description
D5F	\$2,344	<u>ORC 4303.181</u> (Same as D5). Marina restaurant only.

## Museums

Permit Class	Permit Fee	Description
D5G	\$1,875	<u>ORC 4303.181</u> (Same as D5). National sports museum only.
D5H	\$1,875	<u>ORC 4303.181</u> (Same as D5 – except sales till one am). Non-Profit organization exempt from federal income taxation, that owns a fine arts museum, community arts center or community theater.

## Community Entertainment District/Revitalization

Permit Class	Permit Fee	Description
D5J	\$2,344	<u>ORC 4303.181</u> (Same as D5). Community Entertainment District.
D5L	\$2,344	<u>ORC 4303.181</u> (Same as D5). Revitalization District.

## Sunday Sales

Permit Class	Permit Fee	Description
D6	\$400-c \$500-d	<u>ORC 4303.182</u> Sale of intoxicating liquor on Sunday between the hours 10:00am or 11:00am and midnight.

## Other

Permit Class	Permit Fee	Description
D5K	\$1,875	<u>ORC 4303.181</u> (Same as D5 – except sales till one am). Certain non profit organizations that own and operate a botanical garden.
D5M	\$2,344	<u>ORC 4303.181</u> (Same as D5). Restaurant affiliated with center for the preservation of wild animals.
D5N	\$20,000.00	<u>ORC 4303.181(N)</u> (Same as D5). Casino Operator or Casino Management Company.
D5O	\$2344.00	<u>ORC 4303.181(O)</u> (Same as D5). Restaurant located in a casino.
E	\$500	<u>ORC 4303.19</u> Railroad car or airline to sell beer or any intoxicating liquor at retail in glass or from container for consumption in such car or aircraft.
G	\$100	<u>ORC 4303.21</u> Retail drug store (alcohol for medicinal, industrial, mechanical, chemical, or scientific purposes).
H	\$300	<u>ORC 4303.22</u> Carrier by rail or for hire motor carrier who also holds a license issued by the public utilities commission to transport beer, intoxicating liquor, and alcohol, or any of these, in this state or delivery or use in this state.
I	\$200	<u>ORC 4303.23</u> Wholesale druggist (purchase - import alcohol for sale at wholesale and retail).

## Temporary Permits

interoffice  
MEMORANDUM

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**To:** Beavercreek City Council

**From:** Dianne Miscisin, Clerk of Council

**Subject:** Appointments - Boards, Commissions, and Committees

**Date:** May 23, 2019

Kelly Faas has applied to fill the vacancy on the Bikeway and Non-Motorized Transportation Committee. She has attended the meetings and the chair of the committee, Laura Rea has given her recommendation.

The vacancy to be filed is through February 28, 2021.

**Print****Application for City Board or Commission - Submission #1388**

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**Date Submitted: 5/16/2019****First Name**

Kelly

**Last Name**

Faas

**Home Phone****Cell Phone**

937-232-0905

**Work Phone****Email Address**

kellydfaas@gmail.com

**Address1**

2616 Green Hills Drive

**Address2****City**

Beavercreek

**State**

Ohio

**Zip**

45431

**Are you currently registered to vote in the City of Beavercreek?**☒ Yes☐ No**Length of time you have lived in the City of Beavercreek:**

9 years

**Employer**

N/A

**Occupation**

**Address1****Address2****City****State****Zip****High School****Year Graduated**

Millersport High School

1982

**College or Training****Year Graduated**

St. Mary-of-The-Woods College

3/4th of degree completed

**Other****Year Graduated****Have you ever been a member of any city board or commission?**☒ Yes☐ No**If yes, please list the board(s) / commission(s), including number of terms:**

Fair Housing Board - Marietta, OH - 1 term.

***Please chose, in order of preference, only those boards/commissions you are interested in serving on. (Maximum of five)***

**Bikeway & Non-Motorized Transportation Advisory Committee**

1

**Board of Zoning Appeals**

**Charter Review Commission****Community Reinvestment Area Housing Council****Environmental Advisory Committee****Impact Fee Appeals Board****Parks, Recreation & Culture Board****Personnel Board****Planning Commission****Tax Incentive Review Council****Tree Advisory Board****Youth Development Committee****Greene Metropolitan Housing Authority Board****Greene County Board of Health**

**Please describe your background. Include any abilities, skills, licenses, certificates, specialized training, or interests you have which are applicable to the board or commission for which you have applied. (If possible, please attach a copy of your resume):**

I have been a bike rider my entire life.

My background, when I worked, was in the administrative field. My career began as a secretary for the government. Over the years, I worked my way up to Emergency Management Coordinator for Marietta Memorial Hospital and Regional Hospital Coordinator for SE Ohio.

**Resume**

No file chosen

**Please explain why you want to be a board/commission member**

I am a bicycle rider and walker who is very interested in maintaining and improving our trail ways in Beavercreek.

I do not work and have time and energy to devote to the cause.

I am a member of Beavercreek Kiwanis and the Buckeye Trail Association. I ride and walk the trails frequently.

**Please list present membership in any community service or civic organization, of any.**

Beavercreek Kiwanis  
Buckeye Trail Association  
Greene County Genealogy Society  
Ohio Genealogical Society



**CITY COUNCIL**  
**Regular Meeting – June 10, 2019 6:00 p.m.**  
**Council Chambers**

1368 Research Park Dr  
Beavercreek, Ohio

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Rushing
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
- VI. PUBLIC HEARING – 2019 Thoroughfare Plan Update
  - A. Staff Presentation
  - B. Public Input
  - C. Council Input
  - D. Ordinance 19-\_\_\_ (First Reading)
- VII. ORDINANCES, RESOLUTIONS AND PUDS
  - A. Ordinance 19-06, PUD 19-1 IH Credit Union Rezoning (Third Reading)
  - B. Ordinance 19-07 Appropriate the Right-of-Way (Carlotta Oldham) for the Kemp Road Widening Project (Third Reading)
- VIII. COUNCIL TIME
- IX. MAYOR'S REPORT
- X. CITY MANAGER'S REPORT
- XI. CITIZEN COMMENTS
- XII. ADJOURNMENT



**AGENDA  
CITY COUNCIL  
Work Session – June 17, 2019 5:00 p.m.  
Council Chambers**

*1368 Research Park Dr  
Beavercreek, Ohio*

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. DISCUSSION ITEMS
  - A. Land Use Plan
  - B. Park Master Plan
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

DRAFT

# PLANNING DEPARTMENT STATUS REPORT

*May 16, 2019*

## CITY COUNCIL

### May 28, 2019

- PUD 19-1, IH Credit Union- Beavercreek Branch, second reading

### June 10, 2019

- PUD 19-1, IH Credit Union- Beavercreek Branch, third reading

### Tabled / Delayed / Pending

- PC 19-3, Thoroughfare Plan, public hearing

## **PLANNING COMMISSION**

### **June 5, 2019**

- PUD 06-3 SSP #4, Homestead Village, public hearing (Tabled until June meeting.)
- Z-19-1, Specht Rezoning, R-PUD to R-1A, public hearing
- PUD 95-5 MOD 5/19, Minor, Dodd Dental

### **Tabled / Delayed / Pending**

- PC 19-2 ASRA, Zip's Car Wash, public hearing (Tabled indefinitely)

### **Commercial Permits Submitted and Under Review**

- Dollar General
- Noah's Event Venue
- Dunkin Donuts

## **BOARD OF ZONING APPEALS**

June 12, 2019

- V-19-3, Brian Sherman, 1191 Fudge Drive

Currently Tabled or Delayed

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